

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND  
INTERFERENCES

In re application of:		)
		)
Applicant:	Giovanni M. Della-Libera	)
		)
Title:	VIRTUAL DISTRIBUTED SECURITY SYSTEM	)
		)
Serial No.:	10/068,444	) Art Unit
		) 2132
Filed:	February 6, 2002	)
		)
Confirmation No.:	9546	)
		)
Examiner:	Farid Homayounmehr	)

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

This paper is responsive to the Notice of Non-Compliant Appeal Brief ("Notice") dated January 27, 2009. The Examiner has set a one-month period for response, thus making this response due on or before February 27, 2009. Whereas the Notice indicates that the entire brief does not need to be refiled, attached herewith is a new page 13 containing a section "B." to replace the current page 13 of the Appeal Brief. This submission brings the Appeal Brief into compliance with 37 C.F.R. § 41.37(c)(1)(vii). As per applicant's discussion with the examiner via telephone on February 10, 2009, no new substantive arguments have been introduced in the new section "B." A copy of the Notification of Non-Compliant Appeal Brief is also filed herewith for the Commissioner's convenience. It is believed that no fee is due in connection with this filing. However, if a fee is due, the Commissioner is hereby authorized to charge such a fee or credit any overpayment of fees to Deposit Account No. 23-3178.

Dated February 10, 2009.

Respectfully submitted,

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**B. The Examiner Erred in Rejecting Claims 4, 20 and 21 under 35 U.S.C. § 103(a) because They Depend from Claim 1, which Is Patentable over Rothermel as Explained above**

Claims 4, 20 and 21 each depend directly or indirectly from claim 1. Claim 1 was rejected under 35 U.S.C. § 102(b) in view of Rothermel. However, claim 1 is patentable over Rothermel for at least the reasons as discussed above. As such, the examiner's rejections of claims 4, 20 and 21, which depend from claim 1, are also erroneous. Thus, claims 4, 20 and 21 are patentable for at least the same reasons articulated above with regard to claim 1.

**CONCLUSION**

For at least the reasons articulated above, Applicants respectfully submit that claims 1, 33 and 34, and the respective dependent claims, are in condition for allowance, and therefore, respectfully request reversal of the examiner's pending rejections.

Dated this 10<sup>th</sup> day of February, 2009.

Respectfully submitted,

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 01/27/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED  
BY PDN File # 13768.1074  
By MS On 2/2/09  
Action Non-compliant Amendment  
Response Due 2/29/09

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/068,444

Applicant(s)

DELLA-LIBERA ET AL.

Examiner

Farid, Homayounmehr

Art Unit

2132

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 18 June 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

Each Ground of rejection must be argued under its own heading. Entire brief is not needed for this correction only the section found defective

/Sharmalla Coates/  
Sharmalla Coates, Supervisor  
Patent Appeal Center